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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,162	03/13/2006	Daisuke Sogabe	KC-US030568	3665
22919	7590	10/27/2009	EXAMINER	
GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			AHMED, MASUD	
ART UNIT	PAPER NUMBER			
	3714			
MAIL DATE	DELIVERY MODE			
10/27/2009	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,162	<b>Applicant(s)</b> SOGABE, DAISUKE
	<b>Examiner</b> MASUD AHMED	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-146/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant has amended claims 1 and 7-10. Examiner has considered the amendment to the claims very carefully and addressed them below.

### ***Claim Objections***

Applicant has labeled claim 10 as (new), however it was previously presented and currently amended, therefore the label should read (currently amended), instead of (new).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 7-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being**

**unpatentable over Matsuzaki JP 10-211359, in view of Mirasaki et al (US  
20010006909)**

**Regarding claims 1, 8 and 9-10,** Matsuzaki teaches a video game play-by-play commentary system having the following limitations:

A video game program for causing a computer to implement a video game which displays a character on a monitor, and in which the operation of the character can be controlled, the video game program comprising:

a terminology storing function for storing running commentary terminology used while the video game is in progress (para 0005);

a first running commentary function for performing play-by-play or commentary relating to the video game using the running commentary terminology (para 0071);

a running commentary interrupting function for interrupting the first running commentary function when specific events have occurred while the video game is in progress (para 0029-0032);

a second running commentary function for performing play-by-play or commentary relating to the specific events when the running commentary interrupting function has been executed (para 0029-0032);

a running commentary returning function for causing a return from the second running commentary function to the first running commentary function (para 0064); and

a running commentary continuing function for causing the continuation of the play-by-play or commentary by the first running commentary function which was interrupted by the running commentary interrupting function, when the running commentary returning function has been executed (para 0033-0036).

Matsuzaki is silent on clearly disclosing the interruption function of the commentary, however Matsuzaki does explain the condition change during the game play which can be considered as a commentary interruption and furthermore, Mirasaki an art of record discloses various aspects of running a commentary during a soccer game, for example Mirasaki discloses choosing various words from various databases randomly to suit the comment of the game play, so the comment isn't boring and same each time same game play occurs; plurality of phrases are chosen from the plurality of respective databases (summary), Mirasaki further teaches database switching interval or the commentary interrupts when commentary shifts from one database to another database based on the condition of the game (para 0085-0089); therefore it would have been obvious to ordinary skilled artisan to include an interruption commentary if the game is being interrupted and then get back to the normal commentary of the game just as a live broadcast of a game.

**Regarding claim 2,** Matsuzaki teaches

a first terminology selecting function for selecting the running commentary terminology stored in the terminology storing function (para 0005);  
a first selected terminology storing function for storing the running commentary terminology selected by the first terminology selecting function (para 0015);  
a first audio output function for converting to sound and outputting the running commentary terminology stored in the first selected terminology storing function (0015);  
and  
a first transmission function for transmitting the running commentary terminology from the first selected terminology storing function to the first audio output function (para 0021).

**Regarding claim 3,** Matsuzaki teaches the running commentary continuing function causes the continuation of the play-by-play or commentary of the first running commentary function, based on the running commentary terminology stored in the first selected terminology storing function of the first running commentary function (para 0037 and 0063).

**Regarding claims 4,6,** Matsuzaki teaches two or more words are chosen from the data base for the running commentary, Matsuzaki also discloses various conditions of the games and based on the condition words or phrases are chosen from the database

which corresponds to the particular player (para 0005 and 0015), it is respectfully stated that each condition of the game during the running commentary considered as an interruption.

**Regarding claim 7**, Matsuzaki as cited above teaches running commentary based on the condition of the game and various words or phrases are chosen based on the condition of the game (para 0015).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MASUD AHMED whose telephone number is (571)270-1315. The examiner can normally be reached on Mon-Fri 10:00am-7:00pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714